

TESTIMONY OF JOHN CONNOR
FORMER MONTANA CHIEF SPECIAL PROSECUTOR
IN SUPPORT OF HB 370
February 14, 2013

Mr. Chairman and members of the House Judiciary Committee. I am John Connor, former Chief Special Prosecutor for the state of Montana where I served for approximately 21 years. I am now retired from that job and here as private citizen to offer a personal perspective, for whatever it's worth—or not worth.

I have prosecuted and tried more homicide cases than I care to remember. Some of these were death penalty cases in which the person was sentenced to death. All of the death penalty cases I've done were prison homicide cases.

In every homicide case I tried for the past 21 years as special prosecutor and for 6 years as county attorney before that, I made a closing argument that always ended the same way...by pointing out to the jury that the one element of the crime that we often just take for granted, but the one that brings us into court in the first place, is the fact that a human being died. That's the definition of deliberate homicide, purposely or knowingly causing the death of a human being. I would try to convey to the jury that human life was something we respect, we revere, we nurture, we hold sacred above all else, and that when someone takes a human life, needlessly, meaninglessly and violently, then we react with laws that we have also respected, revered and nurtured for generations. We react to hold the person **accountable** because we care so much for the value of human life.

And then in death penalty cases, a month or two or three later, I would get up and ask the court to take the defendant's life. After doing that several times, and after having to call the prison on two occasions in the place of the attorney general and tell Department of Corrections

Testimony of John Connor
HB 370 - Page 2
February 14, 2013

personnel to go ahead and put the person to death because there were no legal actions pending in state or federal court, I began to realize the hypocrisy of my arguments. . . or at least what seemed to me to be hypocrisy. We respect human life so much that because you took one, we are going to use all our legal resources for the next 20 plus years to take your life. It seems akin to the parent spanking his son because he hit his sister. . . **"Hitting Is Not Allowed in this House."**

We have always known that the death penalty is not a deterrent. People who commit the kind of crimes that implicate the death penalty don't think like we do; they don't contemplate the consequences of their actions as we assume they do.

And plea-bargaining is almost never an issue; my cases were all against inmates, and they just wouldn't plead to anything. So on those rare occasions when it might be, it just doesn't offset the time and effort and cost. And there are ethical issues for prosecutors if they don't really intend to seek the death penalty, but are using it solely to get a plea of guilty.

We have no way to report the cost at this point; we've never really tracked the costs, but common sense tells us that it is horrifically expensive. We have to get death qualified attorneys, or two attorneys, one of whom has to be death qualified; the number of experts goes up exponentially for both sides; the likelihood of error increases substantially; and the subsequent post conviction scrutiny through the state and federal court system is mind-boggling.

So, I concluded for my part after looking at the fiscal, the moral, the legal, and the practical aspects of the death penalty. . . We don't need this; we are better than this. Let's show those who take human life that we are better than this.

WE RESPECT HUMAN LIFE.